



## **A G E N D A**

### **General Plan/LCP Implementation Committee**

**March 31, 2010**

**3:30 p.m.**

### **Fire Department Conference Room**

- |   |             |
|---|-------------|
| 1. Approve Action Minutes from March 17, 2010<br>Attachment No. 1 | 3:30-3:35pm |
| 2. Draft Zoning Code Review and Processing<br>Attachment No. 2    | 3:35-5:10pm |
| 3. Future Meeting Dates – Schedule Dates                          | 5:10-5:20pm |
| 4. Items for Future Agenda  | 5:20-5:25pm |
| 5. Public Comments on non-agenda items                            | 5:25-5:30pm |
| 6. Adjourn  |             |

#### **Attachments:**

1. Draft Action Minutes from March 17, 2010
2. The Draft Zoning Code (Third Public Draft) was previously distributed and is available on-line at: <http://www.newportbeachca.gov/index.aspx?page=1478> or contact the Planning Department at 949-644-3200.

## **Attachment No. 1**

Draft Action Minutes from March 17, 2010



# CITY OF NEWPORT BEACH GENERAL PLAN/LCP IMPLEMENTATION COMMITTEE

## DRAFT ACTION MINUTES

Action Minutes of the General Plan/LCP Implementation Committee held at the City Council Chambers, City of Newport Beach, on **Wednesday, March 17, 2009**

### Members Present:

X	Ed Selich, Mayor, Chairman
X	Leslie Daigle, Council Member
X	Don Webb, Council Member
X	Barry Eaton, Planning Commissioner
X	Robert Hawkins, Planning Commissioner
X	Michael Toerge, Planning Commissioner

### Advisory Group Members Present:

	Mark Cross
	Larry Frapwell
	William Guidero
X	Ian Harrison
X	Brion Jeannette
	Don Krotee
X	Todd Schooler
	Kevin Weeda
	Dennis Wood

### Staff Representatives:

X	Sharon Wood, Assistant City Manager
E	David Lepo, Planning Director
X	Leonie Mulvihill, City Attorney
X	James Campbell, Principal Planner
X	Gregg Ramirez, Senior Planner
X	Melinda Whelan, Assistant Planner

E = Excused Absence

### Committee Actions

1. **Agenda Item No. 1** – Approval of minutes for December 16, 2009.

**Action:** Committee approved draft minutes.

**Vote:** Consensus

## 2. Agenda Item No. 2 – Draft Zoning Code Review and Processing

**Action:** The Committee reviewed Committee Member Eaton's comments and provided the following action and suggestions:

- Pg. 1-4 Section 20.10.040 C. – at the end of the first sentence strike “in the absence of” and insert “except”
- Pg. 1-5 Section 20.10.050 B.1. – reinsert “all”
- In all residential development standards tables, remove reference to Section 20.48.180 (Open Space) out of the Additional Requirements column and use a footnote as a reference instead.
- Pg. 2-19 Section 20.20.010 C. – strike “limited”
- Pg. 2-24 Table 2-5 – in the Commercial Corridor (CC) zoning district, allow Maintenance and Repair Services as a permitted use
- Pg. 2-30 footnote (3) – re-write to clarify and change throughout
- Pg. 2-31 Section 20.22.010 E. – possibly reconstruct second to last sentence
- Add a definition for “Parking Facilities”
- Add Research and Development as a permitted use in the all mixed use zoning districts
- Pg. 3-9 Section 20.30.040 A.2. – revise the second sentence to say: “ A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided, except that the required separation shall not be greater than 6 feet. Also, provide a procedure for discretionary relief (ZA) from this regulation
- Pg. 3-9 Section 20.30.040 C.- strike “fence” and insert “guardrail” after 42-inch

**Action:** The Committee requested that staff look into the following items and report back:

- Revise the open space definition or the use of the term “open space” to be clear as to what we are requiring – staff will provide clarification and maybe change the name to “building modulation”
- Pg. 2-62 D.6.Ocean Blvd./Breakers Drive – review with Advisory Member Brion Jeannette and propose revised section and revised related map at the next meeting
- Pg. 3-21 Section 20.30.070 – look into revising some of the language to make it clear that the intent is not to create nonconformities especially for the auto dealerships and the requirements for certain types of lighting and bring back examples of the foot-candle measurements that are being proposed
- Pg. 3-19 D.4. Chimneys and vents – staff will verify with the Building Department that these provisions are accurate

Public Comment on this item:

- Carol McDermott stated that she will provide minor suggestions, in writing, to staff. She indicated that there is no definition of “parking facilities”. Staff will add a definition. She also noted the addition of development standards for the PI Zoning District and would like to meet with staff to discuss. She also explained that she did not want the lighting standards to create unnecessary nonconformities especially for the auto dealerships.
- Tom Matthews expressed concern with the new requirement for residential to provide both parking spaces within a garage. Regarding Section 20.30.130 Figure 3-7 for the Traffic Safety Visibility Area, he questioned whether new buildings would lose square footage because of this requirement. Regarding outdoor lighting, he agreed that the types of lighting required should be further discussed and that a photometric study should always be required before large projects are approved. Also, he stated that relief needed to be added for retaining walls within areas that do not have sufficient horizontal area such as Mariners Mile where the 8-foot maximum height may not be the right number. He will provide more detail in writing to staff.
- George Schroder expressed concern with the new additional requirements for rear yards abutting an alley such as the ones found on pg. 2-13. He thinks the change will reduce maximum building area for certain sites and we should compensate in some other way, possibly on the third floor allowance. Staff will look into this.
- Jim Mosher wants the Committee to consider protecting private views, pg. 3-25 Section 20.30.100, as he feels they are an important part of the City.

**3. Agenda Item No. 3 – Future meeting dates**

The next meeting is scheduled for March 31.

**Vote:** Consensus

**4. Agenda Item No. 4 – Items for future agenda**

The meetings will continue with review of Part 4 of the third draft. Staff will also report back on the aforementioned items.

**5. Agenda Item No. 5 – Public Comments on non-agenda items**

None.

**Agenda Item No. 6 – Adjourn - Meeting adjourned at 5:35 p.m.**

Public Draft No. 3 of the Zoning Code can be accessed on-line at:

<http://www.newportbeachca.gov/index.aspx?page=1478>

## **Attachment No. 2**

Draft Zoning Code – Public Draft No. 3  
(Previously Distributed)

**FOLLOWING  
MATERIALS  
RECEIVED AT  
MEETING**

Questions from Barry Eaton Third Draft Zoning Code Parts 5-7. Staff responses in **bold**.

Part 5 - Planning Permit Procedures:

274) In Table 5-1 (on page 5-4), the decision for Reasonable Accommodations does not have footnote (4) attached thereto, as do CUPs in the Residential zones. Yet, Section 25.52.070.D.1.b. (on page 5-29) appears to clearly state that appeals of Reasonable Accommodations are not De Novo. Doesn't this mean that footnote (4) should be applied to Reasonable Accommodations in Table 5-1?

**Yes.**

275) Section 20.52.020.B. (on page 5-9) refers to itself. Wasn't this reference intended to list Section 20.52.030 (on page 5-11, et seq.)?

**Yes.**

276) Sections 20.52.030.E.1. and 20.52.030.F.1. (on page 5-13) have both had the reference to the Hearing Officer deleted. Why? (Section 20.52.030.F.2. still has that reference included, for example.)

**Use permits in residential districts were proposed to go to the Hearing Officer; however, Utilities Major in residential districts are proposed to go to the Planning Commission, not the HO. Therefore the language was changed to be more generic. Section 20.52.030.F.2. can be changed to "Review Authority".**

277) Section 20.52.030.G.2.c. (on page 5-14) (referring to obtaining other pertinent certificates) has been deleted from this draft. Why? Was this requested or suggested by Special Counsel?

**Recommended for deletion by OCA in consultation with RWG.**

278) Section 20.52.030.H.4. (on page 5-15) has had added to it reference to Bed and Breakfast uses, when determining overconcentration of uses. Is this now an issue for the City? If not, why has it been added?

**B&B's are similar to other non-residential uses conditionally permitted in residential districts, therefore application of the same requirements is necessary.**

279) Section 20.52.030.I. (on page 5-16) refers to the Hearing Officer specifically



being able to impose conditions on approval of CUPs that he may grant. Yet there is no such specific provision regarding the approval of Reasonable Accommodations (which should be approximately on page 5-31 or 5-32). In fact, Section 20.52.070.G. (on page 5-32) states that a request for changes in conditions of approval of Reasonable Accommodations shall be treated as a new application. How can changes be requested, if the Hearing Officer doesn't have the specifically referenced power to impose such conditions of approval?

**Authority to apply conditions of approval is in Part 6. It should be deleted elsewhere.**

Part 6 - Zoning Code Administration:

280) Section 20.60.060.C. (on page 6-6) has had deleted the Planning Director's ability to impose conditions on Planning Director approvals. Why? (There is such authority for the Hearing Officer and Zoning Administrator.)

**The Planning Director does not have discretionary permit authority.**

281) Section 20.68.030.B.1. (on page 6-20) now limits post approval inspections to only non residential structures. Why? Is there not a possible need for such inspections in the case of residential structures - especially for "bootleg units", or other conversions after final inspections?

**It's a question of private property rights and the difference between, for example, a private residence and a business open to the public.**

Part 7 - Definitions:

282) Accessory Alcohol Sales (on page 7-7) has had a new limit inserted, of 30% of the floor area. How was this particular number derived?

**The new 30% limit needs to be moved to Alcohol Sales, Off-Sale, Accessory Only. It was added to On-Sale in error. The 30% threshold is a common industry standard.**

283) Mean Sea Level has been added (on page 7-33), but there is no definition. What should be in place here?

**It should not have been added. Mean Sea Level is not used in the draft code.**

284) Why has the reference under Restaurants (on page 7-43) been deleted? Isn't this a useful reference for layman readers of this code, who might not think to look for "Eating and Drinking Establishments"?

**OK, we'll keep it.**

285) I'm not sure that I understand why the definition of Story (on page 7-48) has been modified so extensively in this draft. Can you please elaborate on this?

**Committee directed staff to review building code and use building code definition if possible. Staff thinks this definition works.**

Part 8 - Maps:

286) Map A-5 doesn't include the easterly portion of Mariner's Mile in Mariner's Mile. Why not?

**The map is in reference to the location of mixed-use areas and there are no mixed-use areas in the eastern portion.**

287) Has Map B-6 (showing the buildable areas of the lots south of Ocean Blvd.) now been changed as to areas designated as Development Area B and Development Area C?

**This was intended to be Area C. Staff is re-evaluating recommendation.**

288) Map H-1 (the high rise area Map) shows the high rise limit as 375 feet. Hasn't this been changed in the text to 300 feet? And wasn't Newport North (the area between Jamboree and MacArthur, north of Bison) supposed to have been deleted from this high rise zone?

**Yes. Staff will be sure the changes are made.**



## CAA PLANNING

March 29, 2010

Mr. Gregg Ramirez, Senior Planner  
City of Newport Beach  
3300 Newport Blvd.  
Newport Beach, CA 92663

Subject: City of Newport Beach – 3rd Draft Zoning Code Update Review Comments

Dear Mr. Ramirez:

This letter is a follow-up to my comments to the GP/LCP Implementation Committee at the conclusion of the March 17<sup>th</sup> meeting to review the 3rd draft of the City's Zoning Code. As you know, we have been monitoring the Committee's on-going review of the staff and consultant efforts to update the Zoning Code. Over the last year, you have met with us separately to answer questions regarding the update process and changes proposed. As a result, your input has helped reduce the number of questions that we otherwise would have brought to the Committee. We appreciate all the hard work that has gone into this process. Below we have identified several issues that we feel are significant and we now wish to bring to the Committee's attention:

- **Retaining Walls** - page 3-9 - We believe that providing clarification that a retaining wall may exceed 8 feet when an integral part of a principal structure is appropriate. However, there may be instances where a retaining wall needs to be in excess of 8 feet to achieve a superior design or to accommodate site constraints. As an example, could the retaining wall on the Mariner's Mile portion of West Coast Highway be built under this new standard? For reference, we have included photographs showing examples of existing walls throughout the City that we believe could not be constructed under the proposed required maximum height of 8'.

It is suggested that in instances where a retaining wall is proposed in excess of 8', the applicant process a modification permit to be reviewed by the Director of Public Works. In so doing, the applicant must demonstrate that a wall height in excess of 8' achieves a superior overall site design and addresses aesthetic considerations.

- **Lighting Standards** - page 3-22, Section 20.30.070 B.4 - The proposed new lighting standards could require site lighting of between 2.5 foot candles and 20 foot candles. We respectfully point out that 1 foot candle is the equivalent illumination of twilight. At that level of illumination an individual casts his or her own shadow. We believe that 2.5 foot candles may be excessive in a given situation and 20 foot candles (equivalent to an office lobby) for high security areas may create challenges to confine the illumination to the site. This can also create security issues where a person standing just outside the lit area may not be visible. We believe that each major project should have the flexibility/choice to prepare a photometric study to demonstrate compliance with the City's goal of providing safety without destroying the ambiance that can be created by appropriate lighting. However, should the City not agree to a requirement to prepare a photometric study, we offer the following specific comments:

- Section A.1 – Does the requirement that parking lot fixtures and light fixtures on buildings be cut off fixtures limit the use of decorative fixtures on buildings?
- Section A.2 – Please clarify whether the City must approve the use of metal halide or LED.
- Section B.1.b – We discussed these standards with a registered professional electrical engineer and he raised a question as to whether the values recommended are consistent with the Illuminating Engineering Society of North America. (IESNA). According to the consultant: "The 2.5 to 1 maximum to minimum is an unusual uniformity metric. We typically see a 20 to 1 maximum to

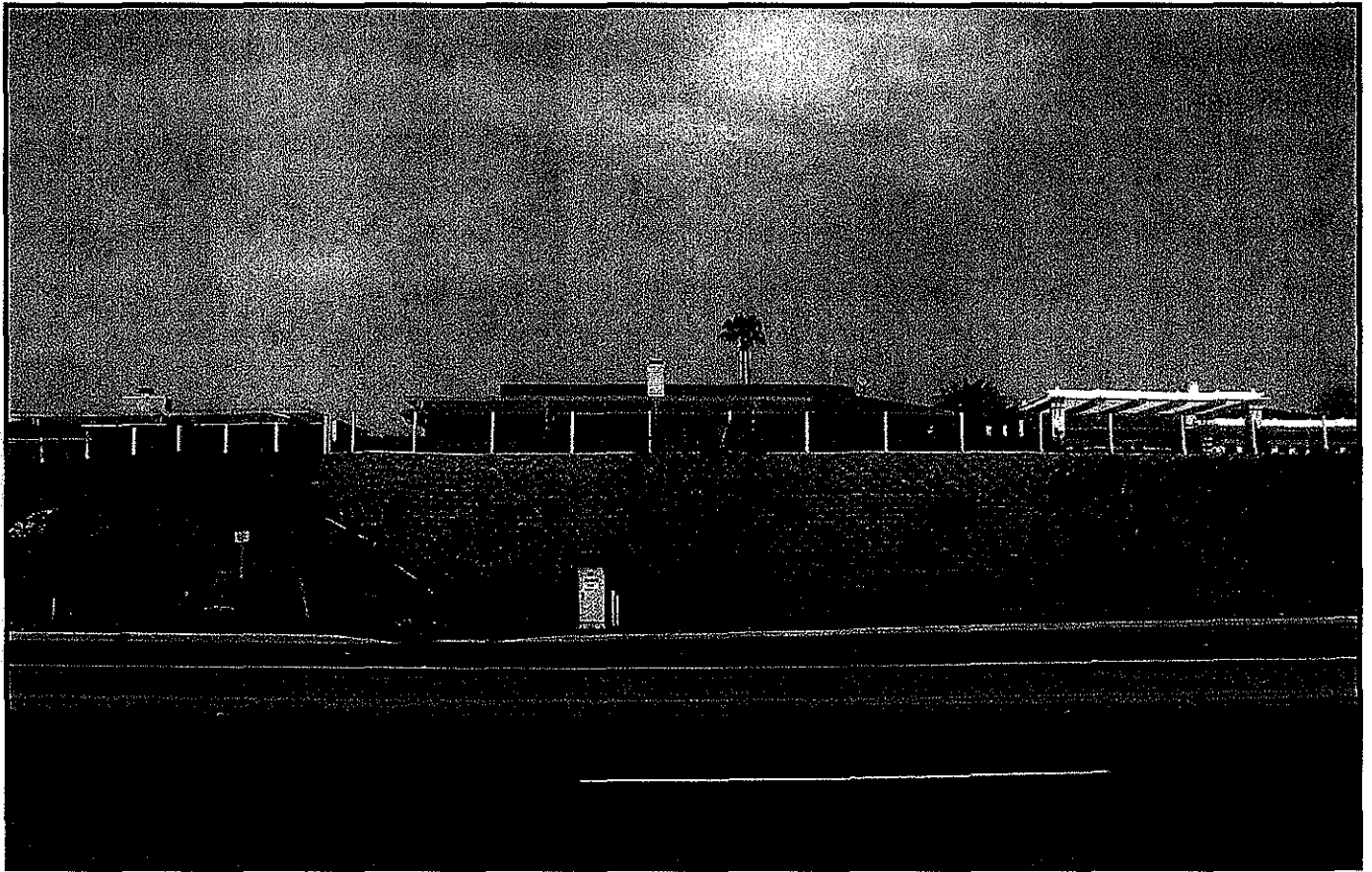


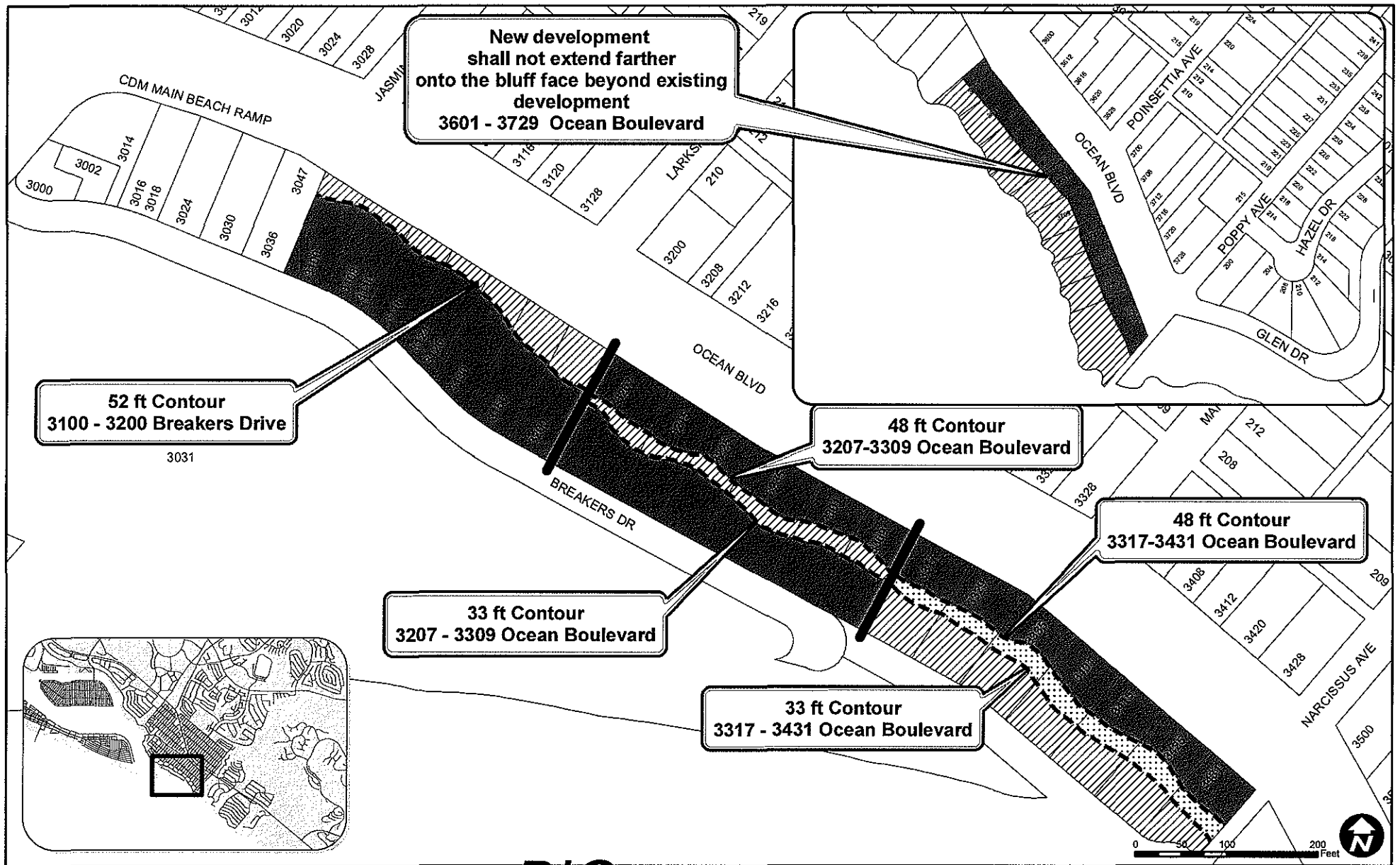
Mr. Gregg Ramirez  
March 29, 2010  
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Rideshare vehicle loading area. A rideshare vehicle loading area shall be designated at a location approved by the City Traffic Engineer. The area shall accommodate a minimum of 2 passenger vehicles ~~for the first 25,000 square feet of development, plus 1 for each 50,000 square feet of additional development or fraction thereof.~~ Additional area may be required by City Traffic Engineer based on the total number of anticipated employees.

- **Traffic Safety Visibility** - page 3-36 – Question: if a principal permitted use exists within the area proscribed by the proposed setbacks on figure 3-7 and if redevelopment is proposed in the future, does the floor area of the principal permitted use decrease because the prior area is no longer buildable?
- **Landscaping** - page 3-88 – the requirement that plant material within a traffic sight area of a driveway shall not exceed 36 inches should be reconciled with the height requirement on page 3-38 which specifies a height limit of 30 inches.
- **Effective Date of Permits** – page 5-41 – Section 20.54.030 states that any permit shall become effective on the 15<sup>th</sup> day following the date of actual application approval. There needs to be a distinction made here that this section does not include ministerial permits in order to be consistent with Section 20.10.040 on page 1-4. B. Issuance of permits.
- **Review Authority** - page 7-44 – Question: should “Hearing Officer”, “Director of Public Works” and “City Traffic Engineer” be added to the list of City entities in this definition?
- **Chapter 20.60** – page 6-3 – Administrative Responsibility – Suggest adding Director of Public Works and City Traffic Engineer duties and functions to this section.
- **High Rise Height Limit** – page 8-1 – Part 8 – Exhibit H-1 does not reflect the 300’ limit.
- **Screening for Roof & Ground Mounted Mechanical Equipment** - page 3-5 and 3-6 – Question: If the subject roof and/or ground mounted mechanical equipment is not visible from any public rights of way, or other public property, why is screening required?
- **Screening of Outdoor Storage** – page 3-7 - Section 20.30.020 B – We suggest adding the following text since screening standards are not listed in Section 20.48.140, contrary to the reference: “Screening of outdoor storage areas shall be accomplished with fences, walls, solid, evergreen hedges or other methods approved by the Department. Chain link fencing with or without slats is not allowed.”
- **Signs** - Table 3-15 – Page 3-114 appears to be the same as page 3-112, although the regulations are slightly different but not high-lighted as new. Page 3-115 appears to be the same as page 3-113.
- **Sign Height** – page 3-120 - Section 20.42.080 – We suggest the 6’ maximum average height requirement for monument signs in Item C should be deleted to be consistent with Table 3-16 on page 3-112 and to be consistent with the treatment of the regulations for a pylon sign, which has no average height limit.
- **Sign Ratio** – page 3-121 - Section 20.42.080 – We suggest the 1.5 to 1.0 maximum ratio for monument signs be deleted to allow long, short signs.

Attached for your reference is a list of typographic errors we noted during our review.





## B-6 Ocean Boulevard / Breakers Drive

Development Areas Delineated By:

— Specified Distance from Front Property Line

--- Specified Distance Below Top of Curb

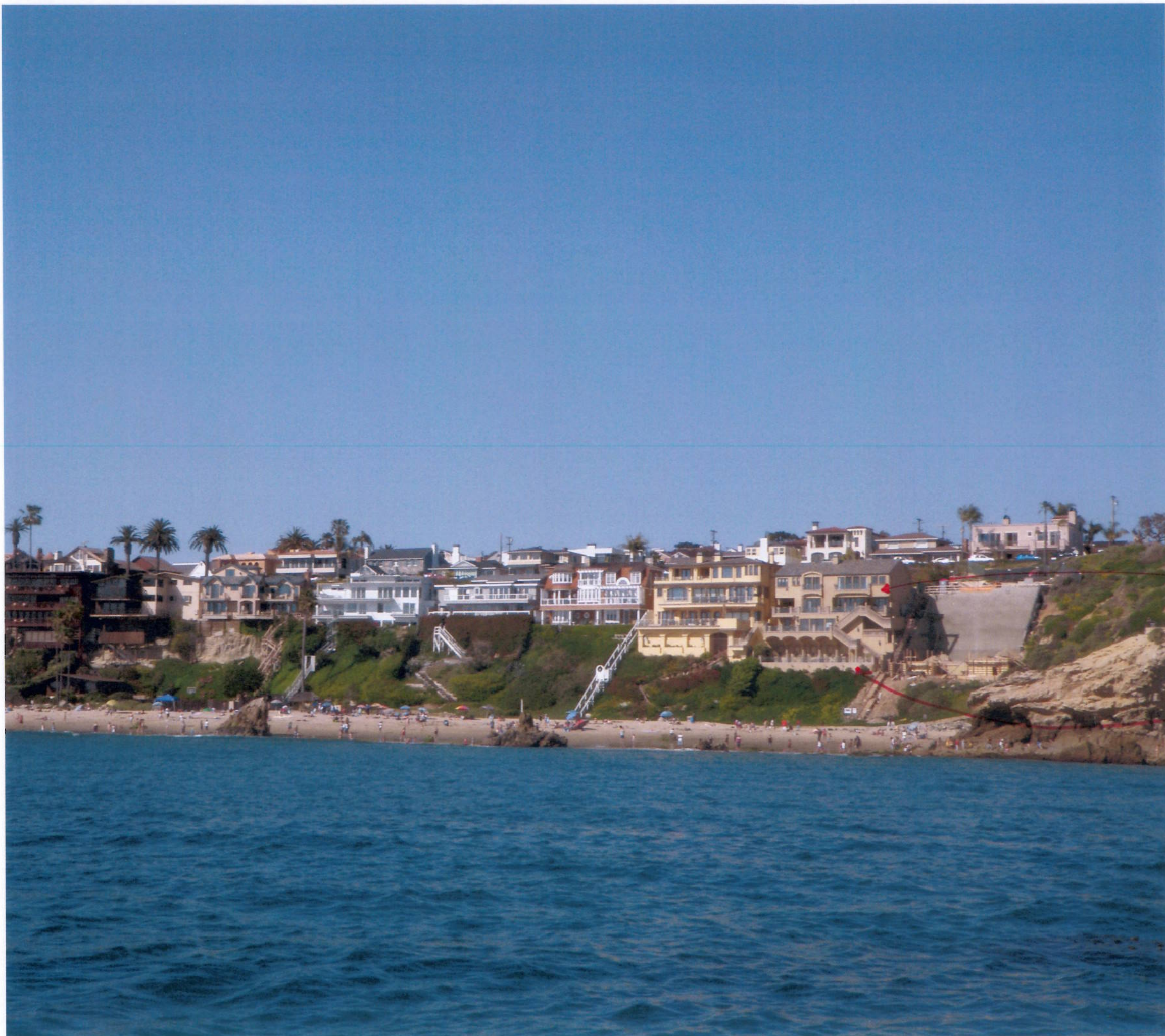
— Specified Contour

Development Area A

Development Area B

Development Area C

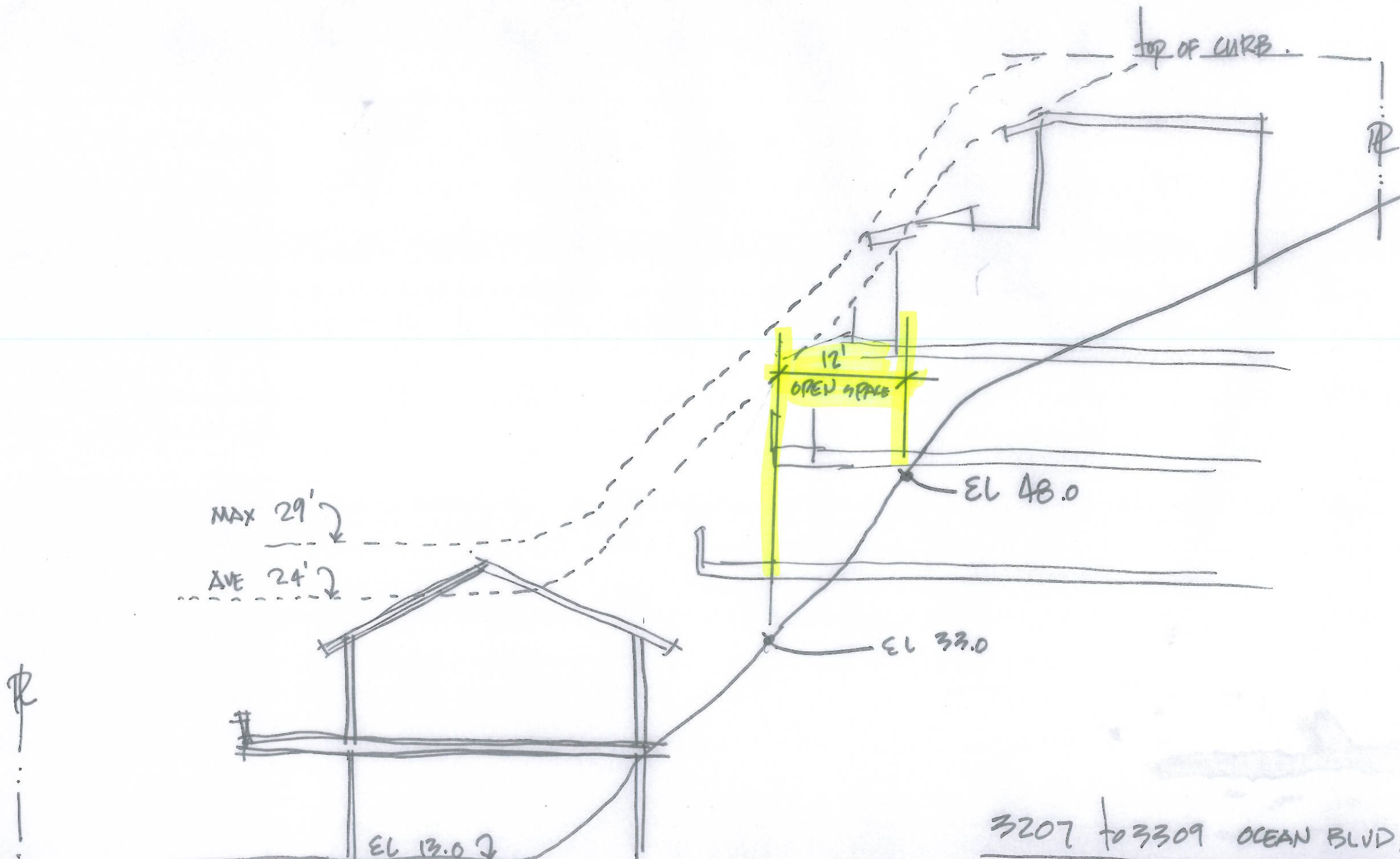




HOUSE @ EL. 48

DECKS @ EL. 33





MAX 29'

AVE 24'

12'  
OPEN SPACE

EL 48.0

EL 33.0

EL 13.0

3207 to 3309 OCEAN BLVD.

TOP OF CURB

R